THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.860 of 2007

Date: 12.02.2007

Between:
Vijayalakshmi Vaddera Labour Contract Coop. Society and others.

....Petitioners

And

The Chief Engineer, A.P. Urban Service for Poor, Public Health Department, Masab Tank, Hyderabad and others.

....Respondents

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O R D E R:

The Khammam Municipality, third respondent herein, intended to undertake seven works within its area of operation. For that purpose, a tender notice was issued through e-procurement. The petitioners and various others submitted their tenders for the seven items. The tenders were opened on 05.01.2007. It emerged that for three works, amounts less than the estimated cost were quoted, and for four works, excess amounts ranging from 4% to 5% were quoted.

The third respondent accepted the tenders, in respect of the three works, for which less amounts than the estimated value were quoted. So far as the other four works are concerned, it has proposed to receive tenders afresh. The petitioners challenge the action of the respondents. According to them, all the tenderers,

who submitted their tenders for the respective works, have invariably quoted excessive amounts, which is permissible under the tender conditions and that the respondents ought to have accepted the most economical tenders among them.

Heard Sri J.Kanakaiah, the learned counsel for the petitioner, the learned Government Pleader for General Administration and Sri P.Radhakrishna, the learned counsel for the third respondent.

The tendering authority is vested with the discretion, either to accept or to reject the tender, irrespective of the amount quoted therein. The satisfaction of the tendering authority is the paramount consideration and the Court cannot compel it to accept the tender of an individual. Instances are not lacking, where the Court interfered, in case the non-acceptance of the tenders was found to be arbitrary or is vitiated on account of extraneous considerations.

In the instant case, it is not in dispute that the respondents have accepted the tenders, where less amounts than the estimated value were quoted. The non-acceptance of the tenders was in respect of the works, where excess amounts were

quoted.

To give an opportunity to the petitioners and other similarly situated persons, this Court directed the third respondent to undertake negotiations, so that the execution of the work would not be delayed, in case, satisfactory bids are offered. Negotiations were held and it ultimately emerged that the petitioners and others have offered to execute the works at the estimated value. The choice of the respondents became further complicated, on account of such a situation. Therefore, the only course open to the respondents is to call the tenders afresh for the four works, in question. Only this much can be said that the work should not be further delayed and in the next round of exercise, the matter should be finalised.

Hence, the Writ Petition is disposed of, leaving it open to the respondents to call for fresh tenders in respect of the left over four works and to finalise the same as early as possible. The petitioners and other similarly situated persons shall be entitled to participate in the same. There shall be no order as to costs.

12.02.2007

Note: Issue C.C. in two days.

(B/o)

JSU